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C O N F I D E N T I A L SECTION 01 OF 03 HARARE 000935

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SUBJECT: BITI AND NCUBE ON SADC NEGOTIATIONS

REF: HARARE 882

Classified By: Pol/Econ Chief Glenn Warren under 1.4 b/d

Summary

11. (C) MDC negotiators Tendai Biti and Welshman Ncube expect SADC-sponsored negotiations to end in November with an agreement that includes a new constitution. Elections will likely take place in September or October 2008. The MDC remains skeptical that ZANU-PF will permit an environment conducive to fair elections. On sanctions, Biti recommends the West maintain, or if possible, increase sanctions. Ncube supports a gradual easing of sanctions commensurate with an improvement of the political environment. Both MDC leaders believe it is a foregone conclusion that President Mugabe will be endorsed by the ZANU-PF Congress in December and stand as the party's candidate for president. End Summary.

12. (SBU) Polecon chief met with Biti and Ncube separately on October 15 and October 16.

Status of Negotiations and Next Steps

13. (C) Biti and Ncube said that agreement had been reached on a new constitution. The negotiators were now meeting in Harare to discuss reform of the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), and the Broadcasting Act. They planned to return to South Africa for talks with the South African mediators on October 30, October 31, and November 1, to finalize agreement on these "security issues." They then expected to begin discussions on "political issues." For the MDC, these issues included violence and intimidation directed at their members; the militarization of governmental structures in the provinces, including the manipulation of

food aid and other coercion of voters; and achievement of civil dialogue on the issues facing Zimbabwe. For ZANU-PF, political issues to be discussed included respect for national sovereignty, sanctions, off-shore radio broadcasts, and attendance by the opposition at Zimbabwe national days (presumably implying recognition of the government).

14. (C) While the MDC expected an agreement, Biti noted that the issue of Diaspora voting was a potential deal breaker. The MDC wanted any Zimbabwean outside the country to be able to vote. Realizing it would not achieve this, the party was aiming at a minimum for the right of Zimbabweans living in SADC countries to vote. Biti explained that since many of these individuals no longer had residency in Zimbabwe--and therefore would not be attached to a constituency--they might not be able to vote for parliamentarians but would be limited to voting for president. This would be acceptable.

15. (C) Following a SADC agreement, the MDC negotiators anticipated that Parliament would submit the draft constitution for several months of public comment. Biti said he expected little to be changed from what was already agreed; nevertheless, after objections from civil society that it was not included in the discussion of Amendment 18 it was important that the public have input into the constitution.

16. (C) The new constitution and agreed-upon legislation (Electoral law, reformed POSA, reformed AIPPA) would be passed by Parliament after public comment on the constitution. Elections would take place under the new constitution. ZANU-PF wanted the elections as soon as

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possible, but both Biti and Ncube emphasized the importance of a "cooling off" period of at least six months to enable the MDC to campaign with the advantage of the new constitution and legislative changes. They believed the earliest elections could take place would be September or October. Ncube commented that the South Africans wanted early elections, but also wanted the elections to be viewed as legitimate. Therefore it was likely they would facilitate a postponement in line with the MDC's wishes.

Economic Consequences of Delay

17. (C) Biti recognized that the disastrous economic situation would continue to deteriorate until there was a change of government. Therefore, a postponement from March until September or October boded poorly for the economy. But there was no alternative. Delay was necessary for proper consideration of the constitution and for adequate campaigning.

The Devil is in the Implementation

18. (C) Biti and Ncube averred that no matter how good a deal with ZANU-PF was on paper, the political atmosphere was critical to a free and fair election. Biti said that violence and intimidation were an agenda item for the talks, but had not yet been addressed. He expressed dismay that although the talks were in progress, ZANU-PF continued to target the MDC. He pointed specifically to a September abduction of several MDC youth at the alleged direction of Tecla Mumbengegwi, wife of the GOZ finance minister. One was killed and one (Maxwell Mazambani) was still in hospital in critical condition. (Comment. Initial reports of the incident indicated that it involved retribution for an apparent theft and made no mention of politically-directed violence. In a press release, the MDC referred to the "continuing violent crackdown on democratic forces," but did not refer to this incident. The press release also claimed

that since the SADC process had begun, police had refused permits for over 100 rallies. End Note.) Biti promised to raise continuing ZANU-PF violence and intimidation with the ZANU-PF negotiators, and in public. He was skeptical, in light of ZANU-PF's current behavior, that ZANU-PF would implement a SADC agreement to the extent that a fair election could take place.

¶9. (C) Ncube thought there was more democratic space since the beginning of the SADC dialogue. He stated that with the notable exception of two provinces, Mashonaland West and Mashingo, the MDC recently had been able to contact potential voters. He opined that the primary problem was subsequent retribution, e.g., denial of food aid, against those who associated with the MDC. Violence was always a potential problem and could be used against the MDC. It was not just a question of ZANU-PF leadership turning off the violence spigot; it was now endemic and it would take years to clean up the security forces.

¶10. (C) Given this endemic culture of violence and intimidation, Ncube was also doubtful that an environment could be created to permit fair elections--even if the will existed. He believed that Mugabe would try to create an environment sufficiently free to have legitimacy bestowed upon elections, but sufficiently controlled to ensure a ZANU-PF victory.

A Difference on Sanctions

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¶11. (C) Biti urged continued pressure, including a possible expansion of sanctions, on ZANU-PF. Ncube supported maintaining current sanctions. He thought, however, that new sanctions would be cynically welcomed by ZANU-PF. The ruling party had long maintained that the western agenda is regime change. New sanctions while the SADC process is ongoing, in Ncube's opinion, would allow Mugabe to say to SADC, "I told you so," and would be perceived by SADC and Mbeki as a slap at their mediation efforts. He suggested that if ZANU-PF improved the electoral environment (after an agreement), the West could respond with easing of travel sanctions on some individuals. He noted that Biti, he, and MDC faction presidents Tsvangirai and Mutambara planned to meet to coordinate a sanctions strategy for the talks.

A Note on ZANU-PF and Mugabe's Strategy

¶12. (C) Both Biti and Ncube thought ZANU-PF's endorsement of Mugabe at the December Congress was a foregone conclusion; the Mujurus were not strong enough to defeat him. More questionable was how Mugabe would react to a failed Mujuru challenge. Ncube thought Mugabe would be pragmatic and welcome them back into the fold to forestall a defection and possible alliance with the MDC.

¶13. (C) Biti stated that Mugabe's greatest goal at this time was securing legitimacy. He had entered into the SADC negotiations, over the objections of some of his hard-line supporters, as a step toward this goal. After a SADC agreement, but before elections, he would make a determination as to whether he could win a free and fair election. If he believed so, he would mandate that ZANU-PF permit such an election. If not, he would rig the election, and after winning, would seek an alliance with Ncube's MDC faction as an alternative way of achieving legitimacy. We suggested to Biti that to prevent a ZANU-PF-MDC (Mutambara faction) alliance, his faction could enter into an electoral coalition with the rival MDC (Mutambara) faction. He responded that his faction was still--but quietly--pursuing this.

Comment

¶14. (C) After some early bumps, the SADC talks appear to be reaching a conclusion. As the MDC continually notes, implementation is key. Continuing ZANU-PF violence and intimidation do not augur well. That party's response in weeks ahead to MDC complaints about the political environment should be a clue to its good faith, or lack thereof.
DHANANI